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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,886	10/12/2001	Georg Steinbichler	H55-060 US	9694

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12
EXAMINER

DEL SOLE, JOSEPH S

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/975,886

Applicant(s)

STEINBICHLER ET AL.

Examiner

Joseph S. Del Sole

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10. 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 3-4, 8-11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Hendry et al (4,824,732).

Hendry et al teach an apparatus for the injection molding of plastic material (Fig 1) having a mold (Fig 1, #4) into which molten plastic material is introduced, a device for introducing liquid (Fig 1, #19 and col 7, lines 6-13) into the interior of the molten material, having a pump (Fig 1, #20) driven by a motor (Fig 1, #29), the stroke volume of the pump is variable selectively to attain a given delivery amount (col 4, lines 31-39); three-way valves between the pump and the mold for controlling the flow of liquid (Fig 1); the liquid is water (col 2, lines 7-15; although the patent states that water is not preferred, it is taught as a liquid).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 5-7 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendry et al (4,824,732) in view of Nagel (5,814,353).

Hendry et al teach the apparatus as discussed above.

Hendry et al fail to teach the motor being one of a servomotor and a three-phase asynchronous motor.

Nagel teaches a three-phase asynchronous motor for a pump for the purpose of being able to provide speed control (col 2, lines 47 and 62-65).

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It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Hendry et al with a well-known three-phase asynchronous motor as taught by Nagel because the ability to control speed would enable the motor to directly control the pump of Hendry et al without the intervening structures.

7. Claims 5-7 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendry et al (4,824,732) in view of Nicetto (5,223,278).

Hendry et al teach the apparatus as discussed above.

Hendry et al fail to teach the motor being one of a servomotor and a three-phase asynchronous motor.

Nicetto teaches a three-phase asynchronous motor for the purpose of varying speed and braking (col 2, lines 53-61).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Hendry et al with a well-known three-phase asynchronous motor as taught by Nicetto because the ability to control speed and brake would enable the motor to directly control the pump of Hendry et al without the intervening structures.

Response to Arguments

8. Applicant's arguments filed 7/30/03 have been fully considered but they are not persuasive.

The Applicant argues that Hendry et al does not teach a pump driven by a motor and that the pump of Hendry does not actually have the fluid pass through it.

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Hendry et al does teach a pump having fluid pass through, the pump being #21 as currently rejected. This action has been made non-final.

The Applicant argues that Hendry et al do not teach water because Hendry et al exclude water from consideration.


The Examiner disagrees. Hendry et al does teach water, but merely teaches that it is not preferable. Hendry et al does not disqualify water from being usable with the apparatus.

Correspondence


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (703) 308-6295. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



J.S.D.
August 20, 2003


ROBERT DAVIS
PRIMARY EXAMINER
GROUP 1300-1700
8/22/03